

In re Application of:  
Carrino et al.  
Application No.: 10/014,128  
Filed: December 7, 2001  
Page 2

PATENT  
Atty. Docket No.: INVIT1290-2

The claims are set forth in the Communication mailed September 23, 2003, as directed to three independent and patentably distinct groups, as follows:

- Group I: claims 1 to 56, directed to a method of generating a double stranded recombinant nucleic acid;
- Group II: claims 57 to 66, directed to compositions containing topoisomerase and nucleic acid sequence; and
- Group III: claims 67 to 74, directed to kits containing a first nucleotide sequence.

Although the restriction requirement is traversed for the reasons set forth below, Applicants nevertheless provisionally elect the claims of Group I, claims 1 to 56, for examination, in order to be fully responsive to the Communication.

The restriction requirement is traversed with respect to the claims of Groups I and III. Although the claims of Groups I and III are independent, and patentably distinct, it is submitted that examination of the claims of Groups I and III would not constitute an undue burden because the kits of Group III contain components useful for practicing the methods of the claims of Group I. As such, a search of the claims of Group I would, of necessity, reveal art relevant to the examination of the claims of Group III. Accordingly, it is respectfully requested that the claims of Group III, claims 67 to 74, be rejoined with claims 1 to 56 of provisionally elected Group I and examined together.

It is submitted that the claims are in condition for allowance, and a notice to that effect is respectfully requested. The Commissioner is authorized to charge Deposit Account No. 50-1355 if any fee is deemed necessary.

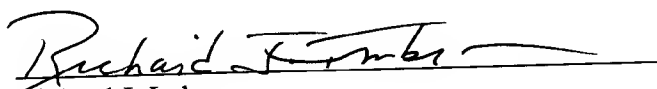
In re Application of:  
Carrino et al.  
Application No.: 10/014,128  
Filed: December 7, 2001  
Page 3

PATENT  
Atty. Docket No.: INVIT1290-2

The Examiner is invited to contact Applicants' undersigned representative if there are any questions relating to this application.

Respectfully submitted,

Date: October 20, 2003

  
Richard J. Imbra  
Reg. No. 37,643  
Telephone: (858) 677-1496  
Facsimile: (858) 677-1465

GRAY CARY WARE & FREIDENRICH LLP  
4365 Executive Drive, Suite 1100  
San Diego, California 92121-2133  
**USPTO Customer Number 28213**